

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
- v. -	:	17 Cr. 105 (JMF)
	:	
JACOB CHAIT,	:	
	:	
Defendant.	:	
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THE GOVERNMENT’S PROPOSED EXAMINATION OF PROSPECTIVE JURORS

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INTRODUCTION

The Government respectfully requests, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, that the Court include the following questions in its examination of prospective jurors. The Court is further respectfully requested to pursue more detailed questioning if a particular juror's answer reveals that further inquiry is appropriate and, in such an instance, to conclude with an inquiry into whether the particular fact or circumstance would influence the juror in favor of or against either the Government or the defendant, or otherwise affect the juror's ability to serve as a fair and impartial juror in this case.

SUMMARY OF THE CASE

This is a criminal case. The defendant, Jacob Chait, has been charged with the commission of a federal crime in an Indictment filed by a grand jury sitting in this District.

The Indictment is not evidence itself. It simply contains the charges that the Government is required to prove to the satisfaction of the jury beyond a reasonable doubt. I will summarize the charges in this case in order to determine whether there is anything about the nature of this case which may make it difficult or inappropriate for any of you to serve on the jury. The Indictment contains a single count, or charge.

Count One charges Jacob Chait with conspiring to smuggle rhinoceros parts out of the United States, contrary to United States law that protects endangered and threatened wildlife species; conspiring to traffic or attempt to traffic in rhinoceros parts, knowing that they were taken, possessed, transported, or sold in violation of United States laws and regulations that protect endangered and threatened wildlife; and conspiring to make a false record in relation to the interstate or foreign purchase or sale of rhinoceros items, from in or about 2008, up to and including in or about March 2012.

The defendant has pleaded not guilty to the charge of the Indictment.

NATURE OF CHARGES

1. Do any of you have any personal knowledge of the charges in the Indictment in this case? Have any of you read or heard anything about this case? If so, is there anything you have read or heard that has caused you to feel that you cannot decide the issues of this case fairly and impartially?

2. As I have just explained, the alleged crime here concerns the sale, purchase, and export of rhinoceros parts contrary to United States laws that protect endangered and threatened species. Does the fact that the charge involves allegations relating to rhinoceros or wildlife trafficking generally affect your ability to render a fair verdict?

3. Have any of you formed an opinion that the actions charged in the Indictment, as I have described it to you, should not be crimes, or that the laws governing these offenses should not be enforced, or that these crimes should not be prosecuted by the United States? Specifically, do you have an opinion that conspiracy should not be a crime? Or do you have an opinion that violations of laws designed to protect endangered and threatened wildlife should not be crimes?

4. Do any of you have any particular feelings or policy views about the types of crimes at issue in this trial—that is, conspiracy to smuggle, traffic, and falsely label rhinoceros parts—that would cause you to be unable to judge this case fairly and impartially, or unable to reach your verdict based solely on the evidence and the law as I give it to you?

5. Do you have an opinion that conspiracy should not be a crime? Do you have an opinion that violations of laws designed to protect endangered and threatened wildlife should not be crimes?

6. Do any of you feel, for any reason, that you could not view fairly and impartially a case involving charges such as I have described?

KNOWLEDGE OF TRIAL PARTICIPANTS

7. This case is being prosecuted by the United States Attorney's Office for the Southern District of New York, in conjunction with the Department of Justice's Environment and Natural Resources Division's Environmental Crimes Section. The United States Attorney for the Southern District of New York is Geoffrey S. Berman. The Acting Assistant Attorney General for the Department of Justice's Environment and Natural Resources Division is Jeffrey H. Wood. Do you or does any relative or friend know or have any connection with Geoffrey S. Berman, Jeffrey H. Wood, or anyone associated with these offices?

8. Do you or does any relative or close friend know or have any connection with any of the following prosecutors or other individuals from the U.S. Attorney's Office who will be handling this trial?

- a. Elizabeth Hanft
- b. Eun Young Choi
- c. Emily Grant (paralegal specialist)

9. Do you or does any relative or close friend know or have any connection with Richard Udell and Christopher Kopf, the prosecutor and paralegal from the Department of Justice's Environment and Natural Resources Division's Environmental Crimes Section who will be handling this trial?

10. Do you or does any relative or close friend know or have any connection to the following law enforcement officers or their relatives or friends?

- a. Dorothy Manera of the United States Fish & Wildlife Service

b. Kathryn McCabe of the United States Fish & Wildlife Service

c. *[Additional names to be provided in advance of trial.]*

11. Do you or any relative or close friend know or have any connection to the Defendant Jacob Chait, or his relatives or friends?

12. Jacob Chait is represented at this trial by his attorneys, Carlos Ortiz, Mayling Blanco, and Anna Svensson [and any paralegal] of the law firm Blank Rome. Do you or does any relative or close friend know or have any connection with any of these attorneys or individuals?

13. If you have seen, heard, or read about the U.S. Attorney, any of the prosecutors, lawyers, law firms, law enforcement officers, or the defendant, is there anything about what you learned that would prevent you from rendering a fair and impartial verdict in this case?

14. During the trial, you may hear testimony from or about the following individuals. Please tell me if you have any personal knowledge about these individuals.

a. *[Names of individuals to be provided in advance of trial.]*

15. During the trial, you may hear testimony about the following entities and locations. Please tell me if you have any personal knowledge about these entities and addresses:

a. *[Names of entities and locations to be provided in advance of trial.]*

ABILITY TO BE FAIR AND IMPARTIAL

16. Do you or does a relative or close friend work for or with any federal, state, or local law enforcement agency, such as the Federal Bureau of Investigation, the District Attorney's Office, or the New York City Police Department?

17. Have any of you, or any family member or close friend, ever been employed by or had any dealings with the United States Fish & Wildlife Service, or any other agency or entity that deals with the regulation or protection of fish, wildlife, or endangered or threatened species?

18. Have any of you, or any family member or close friend, ever participated in hunting, including but not limited to big game hunting?

19. Have any of you, or any family member or close friend, ever been involved in the antiques business, the auction business, or the taxidermy business? Are any of you, or any family member or close friend, a collector of taxidermy items?

20. Do you or does a relative or close friend work for a criminal defense lawyer or private investigator?

21. Are you, or do you have any close relatives or friends who are, judges, law clerks, court attendants, court clerks, other types of court personnel, probation officers, or persons connected with any correctional institution, jail, or prison?

22. Have you or do you have any close friends or relatives who have ever been a witness to a crime?

23. Have you ever been, or do you have any close friends or relatives who have ever been, a victim of a crime? If so, please describe the circumstances, including the type of crime, when it happened, and the outcome of any law enforcement action. If any of you feel uncomfortable discussing this topic in open court, please let me know.

24. Have you or do you have any close friends or relatives who have ever appeared or testified as a witness in any investigation or legal proceeding?

25. Have you or any close friends or relatives ever been questioned in any matter by the United States Department of Justice, the United States Attorney's Office for the Southern District of New York, the United States Fish & Wildlife Service, or any other law enforcement or regulatory body?

26. Have you ever been involved, or do you have any close friends or relatives who have ever been involved, or do you expect to become involved, in any legal action or dispute with the United States or any agency, officer, or employee of the United States, or have you had any financial interest in such a dispute?

27. Have you or any close friends or relatives ever been accused of, charged with, or convicted of any crime, or been the subject of a criminal investigation or subpoena? If yes, please explain the nature of the charges, approximate date, which Government agency brought the charges, and the outcome.

28. Have you—either through any experience that you have had, or anything that you have seen or read—developed any bias or prejudice, either for or against, the FBI or the Secret Service? The United States Fish & Wildlife Service? Any other federal, state, or local law enforcement agency?

29. Have you—either through any experience that you have had, or anything that you have seen or read—developed any bias or prejudice, either for or against, a criminal defense lawyer or a private investigator?

PRIOR JURY SERVICE AND LAWSUITS

30. Have you ever been a juror in a criminal or civil case, or served on a grand jury, state or federal? If yes, what type of case was it? When was it? Did you deliberate, and did the jury reach a verdict (without stating what the verdict was)?

31. Have you, a relative, or a close friend, ever appeared as a witness at a deposition, trial, hearing, or a grand jury investigation?

32. Have you, a relative, or a close friend, ever been a plaintiff or a defendant in a state or federal court case, whether criminal or civil?

LAW ENFORCEMENT TECHNIQUES

33. The witnesses in this case may include law enforcement witnesses. Would any of you be more or less likely to believe a witness merely because he or she is a law enforcement officer?

34. Some of the evidence admitted at trial may come from searches performed by law enforcement officers. I instruct you that those searches were legal and that the evidence obtained from those searches is admissible in this case. Do any of you have strong feelings about searches conducted by law enforcement officers or the use of evidence obtained from searches that would affect your ability to be fair and impartial in this case?

35. Some of the evidence in this trial may come from the use of undercover law enforcement officers. Do any of you have strong feelings about the use of undercover law enforcement officers that would affect your ability to be fair and impartial in this case?

36. Some of the witnesses called by the Government may have past criminal convictions, or may have been involved in some of the crimes charged in the Indictment. Some of these witnesses have pleaded guilty to various crimes related to the offense charged here. Others are testifying pursuant to a non-prosecution agreement with the Government, or by an order of immunity. Some of these witnesses may be hoping that their cooperation with the Government will result in a reduced sentence or some other benefit. Do any of you have strong feelings about the use of these types of witnesses that would affect your ability to be fair and impartial in this case?

37. Do any of you have any expectations about the types of evidence that the Government should or will present in this criminal trial, or in a criminal trial more generally?

Would any of you be unable to follow my instructions that the Government is not required to use any particular investigative technique to uncover evidence of a crime?

38. You may hear evidence in this trial of criminal activity committed by people other than the defendant. Those other individuals are not on trial here. You may not draw any inference, favorable or unfavorable, towards the Government or the defendant from that fact. You also may not speculate as to the reason why other persons are not currently on trial. Is there any juror who cannot follow these instructions or who for this reason would have difficulty rendering a fair and impartial verdict?

MEDIA COVERAGE

39. This case has generated some media attention. Have any of you read or seen anything—in the newspaper, on the Internet, or on TV—about this case?

40. It is possible that this trial could generate a certain amount of media attention. If it does, will each of you follow my instruction that you should absolutely avoid reading, watching, or listening to media reports concerning the case or the defendant—including coverage of the case in social media like Facebook and Twitter—until after this case is over?

FUNCTION OF THE COURT AND JURY

41. The function of the jury is to decide questions of fact. As a juror, you are the sole judge of the facts. However, when it comes to the law, you are to take your instructions from the Court and you are bound by those instructions, even if you disagree with my explanation of the law. At the conclusion of this case, your job will be to determine whether or not the defendant is guilty as charged in the Indictment. Would any of you have any difficulty accepting and applying these legal principles?

42. Do any of you have any legal training, or any family members or close friends who are attorneys or have legal training? If so, would this make it difficult for you to apply the law as I explain it?

43. A defendant in a criminal case has the right not to testify. If the defendant does not testify, the jury may not draw any inference against the defendant based on his decision. The fact that a defendant chooses not to testify may not enter into the jury's deliberation at all. Would any of you have any difficulty accepting and applying this legal principle?

44. Under the law, a defendant is presumed to be innocent and cannot be found guilty of a crime charged in an indictment unless a jury, after having heard all of the evidence in the case, unanimously decides that the evidence proves the defendant's guilt beyond a reasonable doubt. Would any of you have difficulty accepting and applying this legal principle?

45. In a criminal case, the burden of proof always remains with the Government. For the jury to return a verdict of guilty against a defendant, the Government must prove beyond a reasonable doubt that the defendant is guilty. A person charged with a crime has absolutely no burden to prove that he is not guilty. Would any of you have difficulty accepting and applying this legal principle?

46. You are required by law to make your decision based solely on the evidence or lack of evidence presented in court, and not on the basis of conjecture, suspicion, sympathy, or prejudice. Would any of you have difficulty accepting and applying this legal principle?

47. Under the law, the question of punishment is for the Court alone to decide, and the possible punishment must not enter into your deliberations as to whether the defendant on trial here is guilty. Would any of you have difficulty accepting this legal principle?

48. Do any of you feel that even if the evidence established the Defendant's guilt beyond a reasonable doubt, you might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?

49. Do you have any views about race or religion that would make it difficult for you to be fair and impartial?

50. It is not a particularly pleasant duty to find another person guilty of committing a crime, or otherwise judge them in any way. Do you have any political, philosophical, religious, moral, ethical, or other beliefs that would make it difficult for you to pass judgment upon another person, or determine the credibility of a witness, or otherwise be fair and impartial?

51. Do any of you believe that our system of criminal justice improperly favors either the prosecution or the defense?

GENERAL QUESTIONS

52. I expect this trial to take approximately two weeks. Do any of you have any physical or personal problems that would prevent you from serving in this case for this length of time?

53. Do you have a problem with your hearing or vision, or any other medical problem that would prevent you from giving full attention to the evidence presented at trial?

54. Are you taking any medication that would prevent you from giving your full attention to the evidence presented at this trial?

55. Do you have any difficulty in reading or understanding English?

56. In these questions, I have tried to direct your attention to possible reasons why you might not be able to serve as a fair and impartial juror. Aside from the previous questions I have asked, does any juror have the slightest doubt in his or her own mind, for any reason whatsoever,

about his or her ability to conscientiously, fairly, and impartially serve in this case and to render a true and just verdict without fear, favor, sympathy, or prejudice towards either the Government or the defendant, and according to the law as I will explain it to you?

INDIVIDUAL JUROR'S BACKGROUND

57. What neighborhood do you live in? How long have you lived there?
58. Who are the members of your household?
59. What level of school did you reach?
60. If you are employed, where do you work?
61. How long have you worked at your present job? What did you do prior to your current job (or retirement/unemployment)?
62. If you are married or have a partner, is he or she employed? If yes, what does your spouse or partner do?
63. Do you have children? If yes, how old are they? If they are employed, what do they do?
64. Is there anyone else living in your household? If yes, who, and what do they do for a living?
65. What newspapers, magazines, Internet news sites, or blogs do you read?
66. What television shows do you watch on a regular basis?
67. Do you belong to any associations, clubs, or unions?
68. What do you do in your spare time? What are your hobbies and activities?
69. How often do you go on the Internet? What websites do you visit most frequently?
70. Do you use online social networking sites, such as Facebook, Twitter, or LinkedIn? Will you be able to follow my instructions not to post, message, chat, or

communicate in any way on social networking sites about the case during your service as a juror? Will you be able to follow my instructions not to do online research about the defendant, witnesses, or charges in this case?

SUMMARY QUESTION

As you can tell from my prior questions, the fundamental issue here is whether there is anything in your personal history or life experience that would prevent you from acting as a fair and impartial juror. So let me ask you one final time, whether there is anything—whether I have asked specifically about it or not—that would affect your ability to render a fair and impartial verdict in this case?

Dated: New York, New York
January 26, 2018

Respectfully submitted,

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